

## Bunker, Kelly

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**From:** Tiberi, Philip <Philip.Tiberi@fccenvironmental.com>  
**Sent:** Tuesday, August 26, 2014 1:17 PM  
**To:** Bunker, Kelly  
**Subject:** RE: 44 Albe Drive, Bear, Delaware  
**Attachments:** G & G Auto-PCB Disposal documents.pdf

**Philip Tiberi**  
**Commercial Sales Manager**

**FCC Environmental**

505 S. Market Street  
Wilmington, Delaware 19801

Office: 302-421-9307x232  
Cell: 302-420-4981  
Fax: 302-421-9099

[philip.tiberi@fccenvironmental.com](mailto:philip.tiberi@fccenvironmental.com)  
[www.fccenvironmental.com](http://www.fccenvironmental.com)

**Partner with FCC Environmental and you will experience safe, complete service backed up by a measurable Environmental Services Performance demonstrates the value delivered.**

Commercial Services: Used Oil Recycling • Oil Filters • Antifreeze • Parts Cleaners • Absc

Field Services: Industrial Cleaning • Tank Cleaning • Vacuum Services • Hazardous Waste Remediation

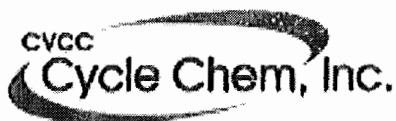
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**From:** Bunker, Kelly [mailto:Bunker.Kelly@epa.gov]  
**Sent:** Monday, August 25, 2014 11:15 AM  
**To:** Tiberi, Philip  
**Cc:** alejandra1653@aol.com  
**Subject:** 44 Albe Drive, Bear, Delaware

Hi Phil – Sandy Barnett had hired FCC Environmental to remove PCB waste from the subject site back in February 2014. Please see the attached letter sent to Ms. Barnett requesting certain documents. EPA has not received the manifests and certificates of disposal for the PCB waste. Can you provide the documents to me?  
Thank you.

*Kelly Bunker*  
Environmental Scientist  
U.S. Environmental Protection Agency  
Region 3  
1650 Arch Street  
Land and Chemicals Divisions  
Toxics Programs Branch (3LC61)  
Philadelphia, PA 19103  
(215)814-2177 Phone  
(215)814-3114 Fax  
[bunker.kelly@epa.gov](mailto:bunker.kelly@epa.gov)

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>		1. Generator ID Number DE120000000000	2. Page 1 of 2	3. Emergency Response Phone (610) 368-9176	4. Manifest Tracking Number 012500451 JJK
5. Generator's Name and Mailing Address 18013 VANDYKE BROWNSHIRE RD SMYRNA, DE 19977		Generator's Site Address (if different than mailing address) 45 ALBE DRIVE NEWARK DE 19702			
Generator's Phone: (302) 653-1223					
6. Transporter 1 Company Name CLEAN VENTURE INC.		U.S. EPA ID Number NJ0700007197			
7. Transporter 2 Company Name		U.S. EPA ID Number			
8. Designated Facility Name and Site Address Cycle Unit Inc. 317 South First Street Elizabeth, NJ 07208		U.S. EPA ID Number NJ0200000006			
Facility's Phone: (908) 255-5800					
9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers No. Type		11. Total Quantity	12. Unit Wt/Vol.
X	1. UN3432 POLYCHLORINATED BIPHENYLS, SOLID 9 PG II ERG# 171	1	DM	25	K
X	2. UN3432 POLYCHLORINATED BIPHENYLS, SOLID 9 PG II ERG# 171	2	CF	159.09	K
X	3. UN315 POLYCHLORINATED BIPHENYLS, LIQUID 9 PG II ERG# 171	2	DM	232.54	K
	4.				
14. Special Handling Instructions and Additional Information 724578/708738/563363/99264 (1) PCB DEBRIS (2) PCB DEBRIS TANK (3) PCB OIL OUT OF SERVICE date: 2-24-14 unique ID#s: 1. 1A 2. 2A 2B 3. 3A 3B					
15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.					
Generator's/Officer's Printed/Typed Name Clean Venture Express Signature on Behalf of Letter Andrew Ferrier Month Day Year 12 26 2014					
16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: Date leaving U.S.:					
17. Transporter Acknowledgment of Receipt of Materials Transporter 1 Printed/Typed Name Signature on Behalf of Letter Andrew Ferrier Month Day Year 12 26 2014 Transporter 2 Printed/Typed Name Signature Month Day Year					
18. Discrepancy 18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection 11-2) 1B9 11-3) 233 Manifest Reference Number: 18b. Alternate Facility (or Generator) U.S. EPA ID Number Facility's Phone: 18c. Signature of Alternate Facility (or Generator) Month Day Year					
19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) 1. H111 2. H111 3. H111 4.					
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a Printed/Typed Name Signature Gretchen Beyer Month Day Year 2-26-14					



August 26, 2014

G & G AUTO  
1653 VANDYKE GREEN SPRING RD  
SMYRNA, DE 19977

Broker: CYCLE CHEM OF LEWISBERRY, INC.  
550 INDUSTRIAL DRIVE  
LEWISBERRY, PA 17339

Re: Certificate of Disposal  
Work Order # 159400  
G & G AUTO  
44 ALBE DRIVE  
NEWARK, DE 19702

Dear Sir/Madam:

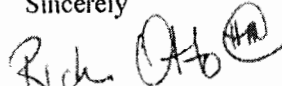
This letter is to certify that Cycle Chem, Inc. (EPA ID No. NJD002200046) has accepted and processed the following shipments.

This acceptance is in accordance with all state & federal regulations and with the requirements set forth in Cycle Chem's Hazardous Waste Facility Permit.

Prod Code	Manifest In	Date In	Manifest Out	Date Out	Sent	Disposal Facility	Disposal Method
<i>*off-spec (orig)</i>							
PCB12	012500451JJK-1	03/03/2014	000626812VES	03/14/2014	2 x DM	Veolia ES (Port Arthur, TX)	incineration
PCBE9	012500451JJK-2	03/03/2014	010409382JJK	03/31/2014	2 x CF	CWM Emelle AL	direct landfill
PCBE9	012500451JJK-3	03/03/2014	010409382JJK	03/31/2014	1 x DM	CWM Emelle AL	direct landfill

If there are any further questions about the management of your waste, please do not hesitate to call.

Sincerely

  
Rick Otto  
General Manager

New Jersey TSDf  
217 South First Street  
Elizabeth, NJ 07206  
908-355-5800  
FAX: 908-355-0562

Corporate Office  
201 South First Street  
Elizabeth, NJ 07206  
908-355-5800  
FAX: 608-355-3495  
[www.cyclechem.com](http://www.cyclechem.com)

Pennsylvania TSDf  
550 Industrial Drive  
Lewisberry, PA 17339  
717-938-4700  
FAX: 717-938-3301

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

OFFICIAL USE

Postage \$ \_\_\_\_\_

Certified Fee \_\_\_\_\_

Return Receipt F  
(Endorsement Required)

Restricted Delivery F  
(Endorsement Required)

**Ms. Sandy Barnett**  
**1653 Vandyke Greenspring Road**  
**Smyrna, Delaware 19977**

Total Postage & Fee \_\_\_\_\_

Sent To \_\_\_\_\_

Street, Apt. No.,  
or PO Box No. \_\_\_\_\_

City, State, ZIP+4 \_\_\_\_\_

PS Form 3800, January 2001

See Reverse for Instructions

7001 2510 0001 1044 1483

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery <span style="float: right;">1-11</span></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No <span style="float: right;">SP</span></p>
<p>1. Article Addressed to:</p> <p style="margin-top: 20px;"><b>Ms. Sandy Barnett</b>  <b>1653 Vandyke Greenspring Road</b>  <b>Smyrna, Delaware 19977</b></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered    <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail    <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from) <b>7001 2510 0001 1044 1483</b></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**Via E-mail and Certified Mail**  
**Return Receipt Requested, Postage Paid**  
**(Article 7001 2510 0001 1044 1483)**

Ms. Sandy Barnett  
1653 Vandyke Greenspring Road  
Smyrna, Delaware 19977

JAN 07 2014

Dear Ms. Barnett:

I am writing as a follow up to our phone conversation on Monday, January 6, 2014. On December 18, 2014, EPA Region 3 Inspectors took a sample of liquids contained in an above ground storage tank located on your property at 44 Albe Drive, Unit 100, Bear, Delaware. The sample results indicate that the liquid contains polychlorinated biphenyls ("PCBs") at a concentration of 581 parts per million. PCBs at this level are strictly regulated for disposal under the Toxic Substances Control Act. The tank must be locked down and the liquid contents must not be pumped out except for transport for proper disposal. The tank and liquids must be contained, labeled as PCBs, and properly shipped for disposal under a manifest as required by the PCB regulations, including 40 C.F.R. Sections 761.40 and 761.207, and applicable U.S. Department of Transportation regulations. The transporter of the PCB waste must have an EPA issued PCB identification number. The shipment of the liquids for disposal and the shipment for disposal or decontamination of the tank must occur within 30 days.

The liquids must be disposed of in an EPA-approved incinerator that complies with 40 C.F.R. Section 761.70. The tank must be either: 1) properly disposed or 2) properly decontaminated and then it can be reused. As per 40 C.F.R. 761.60(c)(1), the tank shall be disposed of in an incinerator which complies with 40 C.F.R. Section 761.70 or in a chemical waste landfill that complies with 40 C.F.R. Section 761.75, provided that the liquids have been removed and disposed of properly. The decontamination of the tank must be conducted by properly trained personnel and must comply with the decontamination provisions found at 40 C.F.R. Section 761.79(b)(3)(i)(A) or .79(c)(1). A list of companies exclusively authorized by the EPA to dispose of PCBs can be found at [www.epa.gov/pcb](http://www.epa.gov/pcb) under PCB waste handlers. Please contact one of those companies immediately to arrange for proper disposal of the PCBs.

Any transportation or disposal of PCBs in a manner not specified in the PCB regulations may result in the assessment of substantial monetary penalties by the EPA.

Please provide me with a copy of the manifest and certificate of disposal for the PCB liquids in the tank as well as information documenting the disposal or decontamination of the tank. Please provide any information regarding the source of the PCB liquids.



If you have any questions, please contact me at (215) 814-2177 or at [bunker.kelly@epa.gov](mailto:bunker.kelly@epa.gov). Thank you.

Sincerely,



Kelly L. Bunker  
PCB Coordinator



*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.*

*Customer Service Hotline: 1-800-438-2474*

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0001 1044 2022

**OFFICIAL USE**

Postage	\$ 3/17/14 - Moved, left no address	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To **Franco Fregapane**  
 Street, Apt. No., or PO Box No. **1354 Porter Road**  
 City, State, ZIP+4 **Bear, Delaware 19701**

PS Form 3800, January 2001 See Reverse for Instructions

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0001 1044 2015

**OFFICIAL USE**

Postage	\$ 3/17/14 - Notice left no authorized recipient available	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To **Franco Fregapane**  
 Street, Apt. No., or PO Box No. **2480 McCoy Road**  
 City, State, ZIP+4 **Bear, Delaware 19701**

PS Form 3800, January 2001 See Reverse for Instructions

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0001 1044 2008

**OFFICIAL USE**

Postage	\$ 3/17/14 - Notice left no authorized recipient available	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To **Franco Fregapane**  
 Street, Apt. No., or PO Box No. **3151 Wrangle Hill Road**  
 City, State, ZIP+4 **Bear, Delaware 19701**

PS Form 3800, January 2001 See Reverse for Instructions

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0001 1044 2039

**OFFICIAL USE**

Postage	\$ 3/17/14 - Notice left no authorized recipient available	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To **Franco Fregapane**  
 Street, Apt. No., or PO Box No. **4376 Kirkwood St.**  
 City, State, ZIP+4 **St. Georges, DE 19733**

PS Form 3800, January 2001 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

**Franco Fregapane**  
**2480 McCoy Road**  
**Bear, Delaware**  
**19701**

**2. Article Number**  
 (Transfer from service label)

7001 2510 0001 1044 2015

PS Form 3811, August 2001

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature **FF** ☐ Agent ☒ Addressee  
**X FRANCO FRECAPANE**

B. Received by (Printed Name) **FRANCO FRECAPANE** C. Date of Delivery **3/18/14**

D. Is delivery address different from item 1? ☐ Yes ☒ No  
 If YES, enter delivery address below:

**MAR 18 2014**

3. Service Type  
☒ Certified Mail ☐ Registered ☐ Insured Mail ☐ Return Receipt for Merchandise ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

Domestic Return Receipt

102595-01-M-2509



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

VIA UPS

Mr. Franco Fregapane  
4376 Kirkwood St. Georges Road  
St. Georges, DE 19733

FEB 27 2014

RE: TSCA Subpoena No. 477

Dear Mr. Fregapane:

On February 7, 2014, you received TSCA Subpoena No. 477 issued by the Associate Director of the Office of Toxics and Pesticides, U.S. Environmental Protection Agency—Region III ("EPA"). The Subpoena informs you of your legal obligation to provide the information requested therein within 10 days of the date you when received the Subpoena. The deadline for your response, February 17, 2014, has passed and the EPA has not received any response from you. Another copy of the Subpoena is enclosed for your convenience.

Please provide your response to the Subpoena immediately. If you are unable or unwilling to respond to the Subpoena, contact me immediately at 215-814-2177 to explain your reason for failing to provide the required response. If you have an attorney representing you in connection with the Subpoena, your attorney should call Mr. John Ruggero, Senior Assistant Regional Counsel, immediately at 215-814-2142.

The EPA looks forward to your cooperation in providing the required response to the Subpoena.

Sincerely,

Kelly Bunker  
PCB Compliance Coordinator

Enclosure





**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY-REGION III**

**IN THE MATTER OF:**

**Franco Fregapane**

**AFFIDAVIT RESPONDING TO TSCA SUBPOENA NO. 477**

I, the undersigned affiant, first being duly sworn, upon an oath, depose and say:

1. Attached hereto are \_\_\_\_\_ pages of narrative written responses and photocopies of documents and/or records requested by EPA which are produced along with this affidavit in response to TSCA Subpoena No. 477.
2. I have made a diligent search and inquiry for all information, documents and records which are reasonably described in TSCA Subpoena No. 477. I have not found or located, and I have not been told about, and I have no knowledge of, any documents or records coming within the descriptions set forth in the said TSCA Subpoena No. 477 which have not been copied and submitted with, or otherwise identified with particularity within, the response to TSCA Subpoena No. 477 that accompanies this affidavit.
3. I hereby certify, under penalty of law, that I have personally examined and am familiar with the information and all attached documents and records submitted in response to TSCA Subpoena No. 477 and that, based upon my personal knowledge and upon my inquiry of any other individual(s) immediately responsible for obtaining such information, documents and/or records, I believe that such information is true, accurate and complete.
4. I acknowledge that this affidavit is submitted to the United States in connection with a matter within the jurisdiction of EPA and that any material false statement of fact herein may be a federal crime under 18 United States Code Section 1001.

Sign: \_\_\_\_\_

Date: 4-30-14

Print name: FRANCO FREGAPANE Official Title: OWNER

Address: 2480 MCCOY ROAD PRINCE DE 19701

SWORN AND SUBSCRIBED TO before me, the undersigned Notary Public, on this

30 day of April, 2014.

[Signature]  
Notary Public in and for the State of Delaware residing at

**LUCRETIA N CHADWICK  
NOTARY PUBLIC  
STATE OF DELAWARE  
MY COMM. EXP. 11-21-17**

19 Jesse Boyd Circle Elkton MD 21921

NOTARY PUBLIC STATE OF DELAWARE

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IN RE: FRANCO FREGAPANE                 )  
  ) TSCA SUBPOENA NO. 477  
  )

1. Yes, in approximately July 2012 Mr. Jean-Louis purchased approximately 6 drums of gasoline from me.
2. 6
3. Gasoline.
4. Mr. Jean-Louis picked up the drums.
5. No money received.
6. No.
7. 1354 Porter – operated a scrapyard from about 2009 – 2012.  
1600 S. DuPont Highway – this location was to buy/sell scrap and surplus liquidation, only open 21 days before a fire destroyed the site.  
4376 Kirkwood Street – current location, store machinery  
2480 McCoy Road – is my personal residence.
8. Yes.
9. FNJ did a minimal amount during this time.
10. No.
11. 1354 Porter Road and 1600 S. DuPont Highway.
12. Yes, mostly gear lube from equipment.
13. Unknown, no such specific records kept.
14. I have been unable to locate any records, most were destroyed in the fire at 1600 S. Dupont Highway around July 21, 2012.
15. No. Oil removed at job site.
16. Unknown, not likely to locate information due to aforesaid fire.
17. At 1354 Porter Road, approximately 500-1000 gallons a month for about 2.5 years.  
1600 S. DuPont Highway – none.  
4376 Kirkwood Street, about 50 gallons a year; soon to be picked up.
18. Vendors would buy it and transported it.
19. Respondent.
20. Only once, due to some water mixed in with the oil.
21. Yes, but unknown to which vendor(s).
22. None.
23. None known.

/s/ Donald L. Gouge, Jr. #2234

DONALD L. GOUGE, JR. (#2234)

800 N. King Street, Suite 303

Wilmington, DE 19801

(302) 658-1800x1

Attorney for Respondent

DATED: April 3, 2014

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**TOXIC SUBSTANCES CONTROL ACT SUBPOENA**  
(Subpoena Duces Tecum)

TO: **Franco Fregapane**

2480 McCoy Road  
Bear, Delaware 19701

1476 Kirkwood St. Georges Road  
Bear, Delaware 19701

1354 Porter Road  
Bear, Delaware 19701

3151 Wrangle Hill Road  
Bear, Delaware 19701

P.O. Box 368  
Hockessin, Delaware 19707

P.O. Box 68  
Hockessin, Delaware 19707

TSCA SUBPOENA NO. 477

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2014 FEB 12 PM 4:37

RECEIVED

This is a subpoena issued under the authority of Section 11(c) of the Toxic Substances Control Act ("TSCA" or "the Act"), 15 U.S.C. § 2610(c). You are hereby required to provide the information requested below to the United States Environmental Protection Agency--Region III ("EPA") within ten (10) calendar days after you receive this Subpoena.

TSCA authorizes the EPA to regulate unreasonable risks to human health and the environment arising from the manufacture, processing, distribution in commerce, use, or disposal of chemical substances or mixtures. In carrying out its obligations under TSCA, the EPA is authorized under Section 11(c) of the Act to require by subpoena the attendance and testimony of witnesses, the production of reports, papers and documents, answers to questions, and such other information as the EPA deems necessary. Pursuant to the authority of Section 11(c) of TSCA, failure or refusal to comply with this Subpoena may result in initiation of court proceedings in a United States district court against the recipient of the subpoena to compel compliance with the subpoena. Any failure to obey such order of the court may be punished by such court as contempt thereof.

Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, EPA is authorized to seek civil penalties of

up to \$37,500 per day of violation of any of the provisions of TSCA, or, in the case of knowing or willful violations, criminal fines of up to \$37,500 per day of violation and/or imprisonment up to one year. In addition, the Criminal Fines Enforcement Act of 1984, P.L. 98-596, provides for the imposition of fines greater than the amount specified in TSCA under certain circumstances.

The issuance of this document does not preclude the issuance of additional subpoenas relating to this matter to you or to any other person.

You are required to sign your responses and attest under oath that your responses are true, accurate, and complete. An Affidavit for your completion and signature accompanies this Subpoena. Your response shall be sent to EPA representative Kelly Bunker, at the address provided on page 5, below, unless it contains confidential business information.

Pursuant to the regulations appearing at 40 C.F.R. Part 2, subpart B, you are entitled to assert a business confidentiality claim covering any part of the submitted information. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. §§ 2.203(b) and 2.306. Unless such a confidentiality claim is asserted at the time you submit the required information, the EPA may disclose this information to the public without further notice to you. Information subject to a business confidentiality claim may be disclosed to the public only to the extent set forth in the above-cited regulations.

If any portion of your response(s) to this subpoena contains information that you claim as business confidential, you should submit that portion of the response in accordance with the following procedures. The material itself should be marked to indicate that it is claimed confidential. It should be placed in an envelope addressed to Kyle Chelius and marked "Confidential Business Information - To be Opened By Addressee Only." The envelope should then be placed in a second, "outer" envelope addressed to:

Kyle Chelius  
Document Control Officer (3LC61)  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

The package containing the confidential business information portion of your response should then be mailed, by registered mail, to Mr. Chelius, EPA Document Control Officer.

#### DEFINITIONS

As used herein the terms listed below have the meanings indicated.

**"Document"** means the original or an identical and readable copy thereof, and all nonidentical copies (whether different from the original by reason of notations made on such copies or otherwise), regardless of origin location, of any writings or records of any type or description, however created, produced or reproduced, including but not limited to any final contracts, contingency contracts, riders, agreements, papers, books, records,

letters, photographs, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations, or of interviews, conferences, or other meetings, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, jottings, agendas, bulletins, notices, announcements, advertisements, instructions, charts, manuals, blueprints, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, sound recordings, computer printouts, data processing program libraries, data processing input and output, microfilm, books of accounts, records and invoices reflecting business operations, all records kept by electronic, photographic or mechanical means, any notes or drafts related to the foregoing, and all things similar to any of the foregoing, however denominated.

**“Drum”** means each and every container, barrel, or drum of liquid that was possessed, held, stored, transported, shipped, received, or controlled, directly or indirectly, by you or any business with which you are affiliated including, but not limited to, FNJ Enterprises, LLC and JNF Industrial Surplus LLC during calendar year 2012 or 2013.

**“G&G Auto”** means the business owned and/or operated by Georges Jean-Louis and located at 44 Albe Drive in Bear, Delaware during 2013.

#### INFORMATION REQUIRED TO BE SUBMITTED TO EPA

You are required to answer the following questions and provide copies of all documents that pertain to each question or the information you provide. In responding to this subpoena, you must base your responses on information in your possession or control, or reasonably available to you. If you cannot fully answer or fully provide the information requested in any specific question below, answer as much of the question as you possibly can with the resources available to you, by providing all information in your possession, under your control, or reasonably available to you. If any information necessary for a complete response is not in your possession, under your control, or reasonably available to you, indicate this fact in your response and identify every person and source that either possesses or is likely to possess such information.

1. Did you provide or transfer drums of liquid to Mr. Georges Jean-Louis, owner/operator of G&G Auto, at any time prior to October 15, 2013? What was the agreement between you and Mr. Jean-Louis regarding what to do with the drums?
2. How many drums did you transfer to Mr. Jean-Louis or G&G Auto?
3. What was in the drums transferred or provided to Mr. Jean-Louis or G&G Auto and where did the contents of the drums come from?
4. Did Mr. Jean-Louis pick up the drums, did you deliver them to him, or did someone else transport the drums to Mr. Jean-Louis or G&G Auto? If you delivered the drums to him, to what address did you deliver the drums and how did you transport the drums? Did you use your personal or business vehicle or did you rent a vehicle? If another person or company transported the drums, please give the name, address and phone number of the person who

transported the drums and the address to which the drums were delivered.

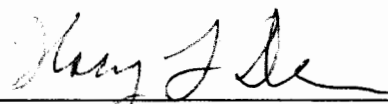
5. Did you receive money for providing the drums to Mr. Jean-Louis? How much money did you receive?
6. Did you pay Mr. Jean-Louis for taking the drums? How much did you pay him?
7. Do you own or operate or have you owned and/or operated businesses located at or near any of the following locations: 1354 Porter Road, Bear, Delaware; 2480 McCoy Road, Bear, Delaware; 1600 South DuPont Highway, St. George, DE; or 4376 Kirkwood Street/St. Georges Road, St. Georges, DE? If so, what is or was the nature of the business conducted at each location?
8. Do you own or operate the businesses called FNJ Enterprises, LLC (hereinafter referred to as "FNJ"), and JNF Industrial Surplus LLC (hereinafter referred to as "JNF")?
9. Did FNJ, JNF or you handle scrap metal or operate a scrap metal recycling business at any time during 2012-2013?
10. Did FNJ, JNF or you handle or have possession of any electrical transformers or other electrical equipment during 2012-2013?
11. Provide the address of every location where FNJ, JNF, or you handled or held scrap metal during 2012-2013.
12. Did you remove oil from any article or piece of equipment that was handled or possessed by FNJ, JNF or you during 2012-2013?
13. Describe and identify each article and piece of equipment from which oil was removed at any location where FNJ, JNF, or you conducted business during 2012-2013.
14. Describe each oil-filled article, container, or piece of equipment that was obtained or held in the possession of FNJ, JNF, or you during 2012 and 2013 and provide the name, address and phone number of the company or person from whom each oil-filled article, container, or piece of equipment was obtained by FNJ, JNF, or you.
15. Did FNJ, JNF, or you possess or transport one or more containers of oil during 2012-2013? How many containers of oil did FNJ, JNF, or you possess or transport during 2012-2013? If you don't know the exact number, provide the approximate number and volumes of the containers. Where were those containers held while you had possession of them?
16. Provide the name, address, and phone number of each and every person who transported any oil from any location where FNJ, JNF or you had possession of the oil.
17. How much oil did each person transport from each location where FNJ, JNF or you held the oil?

18. Why was the oil transported from each location where FNJ, JNF or you held the oil? What happened to each shipment of oil after it was transported from each location where FNJ, JNF, or you held the oil?
19. Who made the decision to transport oil from each location where FNJ, JNF or you held the oil?
20. Did FNJ, JNF or you pay any person to transport oil from any location where FNJ, JNF or you held it? Whom did FNJ, JNF or you pay for transporting the oil? When was each payment made and how much was paid?
21. Did FNJ, JNF or you sell oil to anyone? Who bought the oil? How much oil did each person buy and how much did each person pay for the oil?
22. Provide all information and data relating to chemical analyses of all oil that FNJ, JNF, or you possessed or transported at any time during 2012-2013.
23. Did FNJ, JNF, you, or any business with which you are affiliated possess, hold, store, transport, ship, receive, or control any drum or piece of equipment containing polychlorinated biphenyls, or PCBs, or any substance mixed with polychlorinated biphenyls or PCBs, as defined at 40 C.F.R. § 761.3, during 2012-2013? If so, describe each and every drum and piece of equipment which contained the polychlorinated biphenyls or PCBs. Also, identify when and the person from whom you obtained each and every drum and piece of equipment which contained the polychlorinated biphenyls or PCBs.

If you have any questions regarding this subpoena, please contact Mr. John Ruggero, Senior Assistant Regional Counsel, at (215) 814-2142. If any portion of your answer to this Subpoena is not confidential business information, that portion should be submitted by first class mail, or any equally reliable means, to Ms. Kelly Bunker at the following address:

Kelly Bunker  
Environmental Scientist (3LC61)  
Land and Chemicals Division  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Issued in Philadelphia, PA this 4 day of February, 2014.

  
\_\_\_\_\_  
Harry Daw, Associate Director  
Office of Toxics and Pesticides  
Land and Chemicals Division

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY-REGION III**

**IN THE MATTER OF:**

**Franco Fregapane**

**AFFIDAVIT RESPONDING TO TSCA SUBPOENA NO. 477**

I, the undersigned affiant, first being duly sworn, upon an oath, depose and say:

1. Attached hereto are \_\_\_\_\_ pages of narrative written responses and photocopies of documents and/or records requested by EPA which are produced along with this affidavit in response to TSCA Subpoena No. 477.
2. I have made a diligent search and inquiry for all information, documents and records which are reasonably described in TSCA Subpoena No. 477. I have not found or located, and I have not been told about, and I have no knowledge of, any documents or records coming within the descriptions set forth in the said TSCA Subpoena No. 477 which have not been copied and submitted with, or otherwise identified with particularity within, the response to TSCA Subpoena No. 477 that accompanies this affidavit.
3. I hereby certify, under penalty of law, that I have personally examined and am familiar with the information and all attached documents and records submitted in response to TSCA Subpoena No. 477 and that, based upon my personal knowledge and upon my inquiry of any other individual(s) immediately responsible for obtaining such information, documents and/or records, I believe that such information is true, accurate and complete.
4. I acknowledge that this affidavit is submitted to the United States in connection with a matter within the jurisdiction of EPA and that any material false statement of fact herein may be a federal crime under 18 United States Code Section 1001.

Sign: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_ Official Title: \_\_\_\_\_

Address: \_\_\_\_\_

SWORN AND SUBSCRIBED TO before me, the undersigned Notary Public, on this

\_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_ residing at \_\_\_\_\_

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

CERTIFICATE OF SERVICE

I hereby certify that on Feb. 7, 2014 I hand-delivered to Mr. Franco

Fregapane a copy of TSCA Subpoena No. 477 at the address shown below:

4376 KIRKWOOD ST. GEORGES ROAD  
ST. GEORGES DE.

2/7/14  
Date

Gerard Crutchley  
Gerard Crutchley  
US EPA Environmental Science Center  
701 Mapes Road  
Fort Meade, MD 20755-5350  
410-305-2780

Witnessed by  
[Signature]

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

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RECEIVED

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103

CERTIFICATE OF FILING

I hereby certify that on the date shown below I hand-delivered to Ms. Lydia Guy,  
Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch Street, 5<sup>th</sup> Floor,  
Philadelphia, PA 19103-2029, the signed original of TSCA Subpoena No. 477 (Subpoena Duces  
Tecum) issued to Mr. Franco Fregapane and the associated Certificate of Service executed by  
Mr. Gerard Crutchley.

February 12, 2014.

  
John Ruggero  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Tel. (215) 814-2142

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